

Mary Ann Linder appeals as of right from a conviction of theft of property under \$500, a Class A misdemeanor. She pled guilty to the offense and was sentenced to ten (10) months in the Williamson County jail. The sentence was ordered to run consecutively to a seven (7) year sentence for an earlier offense of theft over \$1,000. The sole issue presented for review is whether the imposed sentence is excessive. We affirm the judgment of the trial court pursuant to Rule 20, Rules of the Tennessee Court of Criminal Appeals.

Linder argues that the sentence imposed by the trial court is inappropriate. She contends the trial court failed to properly mitigate her sentence because her conduct neither caused nor threatened serious bodily injury. Tenn. Code Ann. 40-35-113 (1). She further claims the trial court improperly enhanced her sentence based on being a leader in the commission of the offense involving two (2) or more criminal actors. Tenn. Code Ann. §40-35-114 (2).

Linder could receive up to eleven months and twenty nine days for the theft, a Class A misdemeanor. At the sentencing hearing her pre-sentence report showed over ten other theft-related convictions evincing an extensive history of committing thefts. She was also on parole from a seven-year sentence at the time of the instant offense. Her daughter was also convicted with regard to this offense. The trial judge determined that Linder was a “professional criminal” and found that enhancement factors (1), (2), and (8) applied.¹

In mitigation, Linder emphasized that her conduct did not cause or threaten serious bodily injury. We agree the trial court should have considered this factor. However, any mitigating effect is completely outweighed by her prior history of criminal conduct. Thus, the court had discretion to give this mitigating factor little weight. See State v. Santiago, 914 S.W.2d 116, 126 (Tenn. Crim. App. 1995). Any

¹Tenn. Code Ann. § 40-35-114 (1), (2), and (8). (1) [t]he defendant has a previous history of criminal convictions or criminal behavior in addition to those necessary to establish the appropriate range; (2) [t]he defendant was a leader in the commission of an offense involving two (2) or more criminal actors; and (8) [t]he defendant has a previous history of unwillingness to comply with the conditions of a sentence involving release in the community.

resulting error is harmless, at most. Tenn. R. App. P. 36(b). The trial court slightly mitigated Linder's sentence since she admitted her guilt. The record supports the ten (10) month consecutive sentence imposed by the trial court. This issue is without merit.

Based upon a thorough reading of the record, the briefs of the parties, and the law governing the issues presented for review, the judgment of the trial court is AFFIRMED pursuant to Rule 20, Rules of the Tennessee Court of Criminal Appeals.

JOE G. RILEY, JUDGE

CONCUR:

JOSEPH M. TIPTON, JUDGE

THOMAS T. WOODALL, JUDGE